

Application No.: 09/995,938
Response After Final

4

Docket No.: 532792001400

REMARKS

Reconsideration is respectfully requested.

The Examiner has indicated that claims 1-23 are rejected and that claims 25 to 26 are allowable. In this response, Applicants seek to cancel claims 1-23, amend claim 25 for clarity, and add new dependent claims 28-37 to further clarify allowed claims 25 and 26. Therefore, this amendment after final is submitted in accordance with 37 C.F.R. §1.116.

Applicants seek to amend Claim 25 to read "An isolated nucleic acid molecule comprising a nucleotide sequence encoding a bzr1-D polypeptide having the amino acid sequence of SEQ ID NO: 7" in order to clarify that the claimed nucleic acid molecule does not refer to endogenous sequences.

Applicants further seek to add dependent claims to the two allowed claims, 25 and 26.

Applicants respectfully assert dependent claims 28-37 are fully supported in the specification as filed:

Claims 28 and 29 are directed to a vector comprising the nucleotide sequences of Claim 25 and 26, respectively. Support for these claims is found, among other places, at the first paragraph of page 20 which provides: "The BZR1 polynucleotide sequences according to the present invention may be inserted into a recombinant expression vector."

Claims 30 and 31 are directed to a host cell comprising the vector of Claims 28 and 29, respectively. Support for these claims is found, among other places, at the last paragraph of page 19 which provides "BZR1 polynucleotide sequences can be expressed *in vitro* by DNA transfer into a suitable host cell."

Claims 32 and 33 are directed to a transgenic plant comprising the nucleic acid molecule of Claims 25 and 26, respectively. In support of these claims, the section entitled "GENE TRANSFER TO PLANTS" on page 21 states "...one or more copies of the BZR1 or bzr1-D gene

Application No.: 09/995,938
Response After Final

5

Docket No.: 532792001400

may be introduced into plants to create plants with high levels of BZR1 or bzl1-D polypeptide, using genetic modification techniques.”

Claims 34 and 36 are directed to a monocotyledonous plant transformed with the nucleic acid of Claims 32 and 33, respectively. Claims 35 and 37 involve a dicotyledonous plant transformed with the nucleic acid of Claims 32 and 33, respectively. In support of these claims, the first full paragraph on page 2 states “Plants used in the invention are any plants amenable to transformation techniques, including angiosperms, gymnosperms, monocotyledons and dicotyledons.

In light of this, applicants seek entry of present amendments. After entry of these amendments, claims 25-26 and 28-37 will be pending.

Claim Rejections Under 35 U.S.C. §112

Written Description

The Examiner has rejected claims 1-6, 8-12 and 15-21 under 35 U.S.C 112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time that the application was filed, had possession of the claimed invention. Applicants respectfully disagree with the Examiner’s rejection. However, in order to expedite prosecution in this case, Applicants have canceled claims 1-23. In light of this amendment, Applicants respectfully request that the rejection of claims 1-6, 8-12 and 15-21 under 35 U.S.C 112, first paragraph be withdrawn.

Scope of Enablement

The examiner has rejected claims 1-23 under 35 U.S.C 112, first paragraph for allegedly failing to meet the enablement requirement. Applicants respectfully disagree with the rejection but in order to expedite prosecution have canceled claims 1-23. In light of this amendment, Applicants respectfully request that the rejection of claims 1-23 under 35 U.S.C 112, first paragraph be withdrawn.

Application No.: 09/995,938
Response After Final

6

Docket No.: 532792001400

Allowed Claims

Applicants thank the Examiner for indicating that claims 25 and 26 are allowable. Applicants respectfully assert that Claims 28-37 which depend from allowed claims 25-26 are also allowable.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 532792001400. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: December 10, 2004

Respectfully submitted,

By 

Michael R. Ward

Registration No.: 38,651

MORRISON & FOERSTER LLP

425 Market Street

San Francisco, California 94105

(415) 268-6237

sf-1834326